

WARREN ZONING BOARD OF REVIEW
May 21, 2014
Minutes

The regular meeting of the Warren Zoning Board was called to order at 7:06 pm by Chairman A. Harrington. Also present P. Attemann, Mark Smiley, 1st Alternate M. Emmenecker and 2nd Alternate W. Barrett Holby, Jr. A. Ellis arrived at 7:32 pm. Vice Chairman S. Calenda arrived at 8:03 pm.

Approval of Minutes- April 16, 2014 meeting . It was moved by M. Smiley to accept the minutes. Second by P. Attemann. Yea - Chair A. Harrington, P. Attemann, M. Smiley and M. Emmenecker.

Old Business

Robert J. Healey, Jr., Esq., of 665 Metacom Ave, Warren, representing abutter John Quattrocchi, 325 Water St, while Mr. Healey has read the Public Officer and Employees portion of the Rhode Island General Laws and he has found not conflict based on that this body is a judicial body and based on prior dealings with one of the parties, actually both of the parties, Mr. Healey would like to ask for the record that the Chair (A. Harrington) would consider recusing himself because there has been past financial transactions with one of the interlocking parties of the corporation, the BRB Realty Associates.

Chairman A. Harrington responded that he believed he could sit and rule on this. While the Chairman did recall the transaction he didn't believe it had anything to do with the merits of the application and would not influence his decision.

Application #14-2; Blount Fine Foods, owner and O'Connell's Warren Mill Marina, d/b/a PKO Marine, applicant; 341 Water St; plat map 5, lots 2, 28, 48, and 104, request for a *Special Use Permit* from sections 32-51, 32-52, 32-54, and 32-55 of the Warren Zoning Ordinance to modify several existing *Special Use Permits* that currently govern the property by allowing a boat storage and service business, and for storage of boats within an existing structure.

Pat O'Connell gave representation of Application #14-2, Blount Fine Foods, owner and O'Connell's Warren Mill Marina, d/b/a PKO Marine, applicant, 341 Water St, plat map 5, lots 2, 28, 48, and 104. Mr. O'Connell explained this is a boat yard that will restore old boats and work on vessels. This is seasonal business, they shut down from the beginning of January to the beginning of March. The space where the Clam Shack is Mr. O'Connell will occupy that space from October to April and when the Clam Shack opens around the second week of May he would not be using this part of the property at that time per his lease. He is in the Clam Shack area for about seven (7) or eight (8) months out of the year and the space behind the

planet he will occupy for twelve (12) months. The area on the clam shells to the North (South of Mr. Quattrocchi) is the area of operation from October to April 21, than he would have to vacate that portion of the property, this would be the whole area where the Clam Shack conducts business and the small marina. Mr. O'Connell also explained that the only difference in the proposed operation of his business now as to when he was on the Quattrocchi property is, on the Quattrocchi property he had occupied up to approximately 300 linear feet of dockage and before he could rent slippage. Now he will not be able to do that. Although boats will be able to be launched from the ramp just south of the Clam Shack. Mr. O'Connell stated there would be no storage of fuel other than what is in the equipment. He further explained that his business was basically just being moved one property line over and would actually be a little bit smaller of a business. Mr. O'Connell discussed when soda blasting a boat, the boat is tented, the ground is covered with a tarp, when finished the debris are deposited in the dumpster. The "soda" that is used in the blasting is in the power state not a solvent. The soda blasting would be taking place during the lease period and not while the Clam Shack is open. Boats are washed using Joy dish liquid prior to returning them to their owners with the standard boat washing technique. He is looking into a power washing recyclable pad which DEM is now requiring and he does have a letter of intent filed with them. He also stated that he follows the guidelines from the Rhode Island Clean Marine Guide Book which is published by the DEM. Mr. O'Connell assured a concerned neighbor he would take the necessary steps to aide in reducing the wind noises and clanging made by the boats equipment when it is windy.

Mr. Healey stated that he had questions and asked the Board if he should ask the questions directly or through the Chairman.

Chairman A. Harrington stated it would be best for him to ask the questions through the Chairman.

Mr. Healey - Is the operation a marina?

Chairman A. Harrington- Sir?

Mr. O'Connell - I would call it more a boatyard. When I was at 325 Water St., right next door I had slips therefore we called it the marina.

Mr. Healey - Just what is O'Connell's Warren Mill Marina?

Mr. O'Connell – That was the business name when I opened my business in 2004.

Mr. Healey – Do you still operate under that?

Mr. O'Connell – I operate under PKO doing business as PKO Marina. I keep that name d/b/a PKO.

Mr. Healey – Okay, and there is a web site for that?

Mr. O'Connell – Yes there is.

Mr. Healey – And that web site list that you do various boat operations? Service and repair? Maintenance? Soda blasting?

Solicitor Minicucci – Just a point of order Mr. Chairman, you had indicated that Mr. Healey should direct questioning through the Chair. It has now gotten into a direct examination. So I just want to point out from a procedure stand point, as your Solicitor, for terms of this petition and terms of how you would like to proceed.

Chairman A. Harrington – Why don't you go back to directing your questions to the Chair?

Mr. Healey – Is there a soda blasting operation?

Chairman A. Harrington – Sir, can you respond to that?

Mr. O'Connell- Yes

Mr. Healey- What is soda blasting, so that the panel can understand that?

Chairman A. Harrington – And what is soda blasting?

Mr. O'Connell- It's a form of stripping bottom paint.

Mr. Healey – Did you say stripping paint?

Mr. O'Connell – Bottom paint.

Mr. Healey – Bottom paint.

Mr. Healey – So when you blast off, you blast off many layers of paint?

Chairman A. Harrington – Why don't you describe the soda blasting process.

Mr. O'Connell – Basically you are removing paint from the bottoms.

Chairman A. Harrington – I'll propose the question, if I may, and what happens to the residue that is blasted off?

Mr. O'Connell – The residue is all contained, everything is tented and bagged. There is no airborne dust or anything.

Chairman A. Harrington –Did you do soda blasting when you were at the Quatrocchi facilities?

Mr. O'Connell – Yes I did.

Mr. Healey - Have you had the site tested for any particles of Lead, Copper, Zinc or other chemicals that are traditionally know to be part of boat paint?

Chairman A. Harrington – Has he had the site tested? Have you had the site tested?

Mr. O’Connell – No.

Chairman A. Harrington – Do you know if Blount’s has had the site tested?

Mr. O’Connell – I don’t believe so.

Mr. Healey – In his business does he have any use for Zinc, Copper or Lead?

Chairman A. Harrington –Do you have any use for Zinc, Copper or Lead?

Mr. O’Connell – No

Chairman A. Harrington – My understanding is that Zinc

Mr. O’Connell – Oh yes Zinc would be applied to metals, to cast, to be applied to a metal hull.

Mr. Healey – Are there any forms of Zinc painting?

Chairman A. Harrington – Zinc painting?

Mr. O’Connell- No

Chairman A. Harrington – Copper paint?

Mr. O’Connell – No, I don’t believe so. It would be whatever is in the bottom paints that are being sold these days.

Mr. Healey – Does he keep a record of when he does his sandblasting?

Chairman A. Harrington – Do you maintain a record of the soda blasting?

Mr. O’Connell- I really only do a handful of jobs, so I would say record are kept per (inaudible)

Chairman A. Harrington – So you invoice the customer and that would be a record and the plan that the activity occurred?

Mr. O’Connell – Right

Mr. Healey – On the materials that he says that are put into containment, how do they get disposed?

Chairman A. Harrington – Okay, how do they get disposed of the material that is gathered up after the soda blasting process?

Mr. O’Connell – It goes into my dumpster.

Chairman A. Harrington – And is collected?

Mr. O'Connell – Yes

Mr. Healey – So it is put into general refuge, Town or commercial refuge.

Mr. O'Connell – It goes into my dumpster.

Mr. Healey – Okay, so there is no special handling of any of that in case there is Lead, Copper, Zinc or any other chemicals that came off with the paint? Mr. Chair.

Mr. O'Connell- No, we don't.

New member enters, Solicitor remind him that he will not be able to participate on the decision making process for this application.

Solicitor Minicucci – Mr. Healey just so the records clear, obviously you are appearing on the behalf of an objector, correct?

Mr. Healey- That's correct.

Solicitor Minicucci – Alright, and just so the Board knows, he's allowed to suggest questions to the, if you are so inclined to ask them of the applicant, you can or you may not. He's allowed to address on behalf of his client whatever his objections may be, they can call witnesses themselves if they choose to, however you are not obligated to ask any particular questions, either in the form or its entirety at all if you see fit not to the applicant.

Mr. Healey – I agree.

Mr. Healey – Do you do boat washing on this particular property?

Mr. O'Connell – Yes, we do.

Mr. Healey - What happens with the water that comes off the boat? What happens when the water runs off the boat?

Chairman A. Harrington – Let me just ask, Mr. Healey what the relevance is with the application of a special use permit number one. Number two, this application has been to the Planning Board with all of these things and has come back to us from the Planning Board with an affirmative recommendation. This process was one which you requested and is provided for.

Mr. Healey – For the record then I will state my objections. My problem is that your general standard for Special Use Permit include, while it will be compatible with the neighboring land uses, that I have no problem with. It will not create a nuisance or a hazard in the neighborhood and I think that's the focus of this board. I think it will be compatible with the comprehensive community plan because certainly in that area you have boating and the public convenience and welfare will be served and I find it hard to argue that. But if you go to the next set of standards that you must apply for non-conforming uses, the proposal will not result

in the creation of or an increase of the undesirable impact related to the use, such as, excessive noise, traffic or waste generation. The general appearances of non-conforming development will not be altered so as to heighten or make more of a non-conformity and the negative impact on the natural environment or any historical or cultural resources. I think number 3 or section 32-31 and section B of 32-30 are the points that I am trying to get at by asking what type of material are being used, how the materials are being processed, whether the process is actually being conformed with in the terms of State law. Whether or not there are residues on this particular site. Those are the concerns.

Chairman A. Harrington – Those are residues that would be generated by him not what was there when he arrived there.

Mr. Healey – That, we don't know.

Chairman A. Harrington – And I think as you read, it was, it will not increase (inaudible) and given the testimony so far, he is simply doing the same things he was doing before.

Mr. Healey- That may be the case but next door did not have food service next to it and part of the same use.

Solicitor Minicucci –Just so there is no confusion, I don't believe this would be a non-forming use, so I'm not sure you really need to go there. I think it's more directly for purposes of the Board's concern here, directed more toward the Special Use Permit and those considerations under 32-30.

Chairman A. Harrington – So let's focus on the nuisance and the hazard in the neighborhood. Your point I take it is, that these operation would be interfering with the food service.

Mr. Healey- I think that my old man use to tell me that you don't dump where you eat.

John R Ziak, 303 Water St, abutter to applicant and adjacent to Mr. Quattrocchi. His concern is that in the past properties in this area sound like a wind tunnel. His understanding is that it is because of the riggings not being secured. Also in the past they have asked and he would like to ask again, if when the boats are put on their supports they can be secured so they won't be clanging when it is windy. Last year there were times when it was just like a wind tunnel and he could hear it on his property with the windows closed and doors shut. The adjacent properties could hear this as well.

Mr. Healey asked permission to ask questions of his client, Mr. John Quattrocchi.

Chairman A. Harrington – Absolutely.

Mr. Healey- Mr. Quattrocchi you have property that abuts this property?

Mr. Quattrocchi- I do.

Mr. Healey – And you are objecting to this application?

Mr. Quattrocchi – I do object.

Mr. Healey – And can you tell us briefly why?

Mr. Quattrocchi – I object because there are toxic dust that are being created and being distributed into the air, the prevailing wind are southerly and this material is falling on my property.

Mr. Healey – Have you witnessed any of the soda blasting that Mr. O’Connell has indicated that he has been doing?

Mr. Quattrocchi – Well he did soda blasting on my property and left residue all over the place.

Mr. Healey – You had to have that cleaned up?

Mr. Quattrocchi – I am in the process of getting environmental reviews and cleanup plan but I am also objecting to the open sanding without and capture and without any tenting and I have some photographs here.

Mr. Healey – Those photographs were taken by you?

Mr. Quattrocchi – They were.

Mr. Healey – I would like to offer those into evidence.

Mr. Quattrocchi – If I may explain?

Mr. Healey – Please do.

Mr. Quattrocchi – Mr. Chair

Mr. Quattrocchi – This photograph is of a sailboat being sanded with a DA sander, it is an air driven sander, the sanding debris flies into the air, the worker is wearing an environmental suit and respirator, but all of the boats on my property were covered with a fine white dust, just from the cover of the bottom paint. The bottom paint is toxic depending on the formulation, lead, taint, tin, zinc or copper, as well as other metallic chemicals which do not break down. This active occurred over a couple of days. He brought his own air compressor and he worked there. Unfortunately, I didn’t have a full angle lens but I can email you the photographs where you can zoom in on it and see the activity. He is completely covered in environmental clothing and he is also covered in a cloud of dust. This was done about a month ago in the area where the Clam Shack is, where people will be parking and moving to eat food.

Chairman A. Harrington – Who is he?

Mr. Quattrocchi – I have no idea. Whoever he is, he is a customer of Mr. O’Connell.

Member W. Barrett Holby, Jr. – Is that Matt Asaro, a dentist from Barrington? I believe that's his boat. I've seen him work at Stanley's boat yard before that and I think he had a vacuum attachment to his DA, but I can't tell from here.

Mr. Quattrocchi – I observed it, DA's don't have a vacuum attached to it, the dust was flying in the air. It's an old style DA run by a compressor. A DA sander is an orbital circular type of disc that, sanding discs that moves and generally the material flies in the air and that's what was happening here and I observed it.

Member W. Barrett Holby, Jr. – They do, a lot of them do.

Mr. Healey- Mr. Quattrocchi did you see any tent around the sanding activity?

Mr. Quattrocchi – No, there was no tent, there was no drop cloth, there was no effort at all to capture that material. It came right at me.

Member Emmenecker – Is that required to be reviewed by a State visit?

Mr. Quattrocchi – Does what require to be reviewed by a State visit?

Member Emmenecker – The soda operation and the sanding operation?

Mr. Quattrocchi- Well, I can tell you that all the Marinas have started using HEPA vacuum cleaners and collecting the waste from the sanding. In this particular incidence it was not done.

Member Emmenecker– Is that the law?

Mr. Quattrocchi – I believe it is the law. Yes I believe it's the law in DEM and I would have to find it in the regulations for you and supplement the record if you would like.

Member Smiley – Do you have any idea if this is an employee?

Mr. Quattrocchi – I have no idea who it is.

Member Smiley – Is this the owner of the boat?

Mr. Quattrocchi – I have no idea who it is.

Mr. Healey - Your intention is that is merely occurring on the property is that correct?

Mr. Quattrocchi – This occurred all the time on my property it simply moved to the south, the prevailing winds are from the south and I am getting similar results as when he occupied my property.

Mr. Healey - So it's a nuisance to your property as well as a potential environmental hazard on his property?

Mr. Quattrocchi - It's a nuisance to my property and an environmental hazard to the community.

Member P. Attemann – May I ask a question?

Solicitor Minicucci – Just a point of order on that particular point, which would be that's for the Board to decide, that issue, the ultimate issue in this hearing relative to what you decide. You don't have to except somebody's testimony on that point. You can except the factual basis and apply whatever weight you choose give it.

Member P. Attemann- Two questions. The incident that you just showed us was this an isolated incident?

Mr. Quattrocchi – No, it was not.

Member P. Attemann – Okay, and the applicant was a tenant of your property did you bring this issue and was this ever discussed? Were there things that were done to try and mitigate that sort of relief?

Mr. Quattrocchi – Well over the years that Mr. O'Connell was a tenant on my property I repeated conversations with him to no avail. He has no respect for people or the environment.

Member P. Attemann – If that didn't go any where did you try to take any other kind of action? Legal actions to the Town or DEM?

Mr. Quattrocchi – I have meet three time with Blount's, I met three times with Ted, once with Ted and (inaudible) and I complained to the landlord.

Member P. Attemann – But I am saying when the applicant was your tenant, on your property doing this exact same operation. Were there any issues and if that fell on deaf ears, did you take any legal action?

Mr. Quattrocchi – There's a funny story there because I complain to the Town Building Inspector and to the Town Police Chief with regard to these activities and the next thing I knew the Town Solicitor was engaged by Mr. O'Connell and started to represent Mr. O'Connell in adversity to me and ultimately filed suit against me in this matter, and the matter of trying to get Mr. O'Connell to, he filed a suit against me because I ask him to clean up his act a little bit or leave. So I was in a position where the authorities to whom I was complaining, were represented by the same attorney who represent Mr. O'Connell.

Mr. Healey – And there are other problems in that particular use on that property?

Mr. Quattrocchi – There are a number of problems. The zoning relief that the Clam Shack received on two separate occasions in not being complied with. There is construction that has occurred without a building permit, there is a new trailer on the property which is not authorized under the zoning relief, there is a mandated parking requirement, I think it is substantial but, it

increased 36 to 80 seats in restaurant, they mandated parking requirement half of the parking area that is supposed to be allocated to the Clam Shack is now used for boat storage. I have a photograph of that I would like to offer if you would receive it.

Mr. Healey – You took this photo?

Mr. Quattrocchi – I took this photo.

Mr. Healey – Offer this into evidence.

Chairman A. Harrington – Okay, we'll call this objects B.

Chairman A. Harrington- Do you want to describe Mr. Quattrocchi what is in B?

Mr. Quattrocchi – B is a photograph looking south-westerly, standing on the edge of the asphalt, which Mr. O'Connell mentioned as a transit zone for the food plant operations, it's a shelled area which goes from the asphalt to the bulkhead on the west property line of Blount's Fine Foods.

Chairman A. Harrington – This is all south of the launching ramp?

Mr. Quattrocchi – Right, that's correct.

Chairman A. Harrington – And what is the point of it, of this photo?

Mr. Quattrocchi – The point is that to show that the parking that was mandated for the Clam Shack was not available because it is now being claimed by the boat storage operations. I have another photograph which shows the marina parking only in the area where Clam Shack counts it as its parking lot.

Member M. Smiley – What date is this?

Mr. Quattrocchi – This past week, there is a date in my camera, I can dig it out.

Chairman A. Harrington – When did the Clam Shack open?

Mr. Quattrocchi – The Clam Shack is just opening now.

Member W. Barrett Holby- I drove down there today and it didn't look like this.

Mr. Quattrocchi – I can smell it, it's opened.

Chairman A. Harrington – Do you have something else to offer Mr. Quattrocchi?

Mr. Quattrocchi – I have two more photographs. This is the area which is claimed in the application as part of is Clam Shack parking which is designated as marina parking only, so it is not available for the Clam Shack patrons, so a count of the number of parking spaces required would clearly come up short.

Chairman A. Harrington – Okay that would be an issue dealing with the Clam Shack.

Mr. Healey – I would like to object.

Solicitor Minicucci – I don't think the object is appropriate Mr. Healey, you certainly can ask whatever question is probative.

Chairman A. Harrington – So, we are going to mark this C and why don't you describe what's on C.

Mr. Quatrocchi – It's a picture of at the north area which has been called the Clam Shack parking area was full of boats and storage. In fact the trash barrel is roughly where the sailboat was being sanded in the open air and blowing westward, generally westward.

Chairman A Harrington – And when did you take this?

Mr. Quatrocchi – This picture taken yesterday, Tuesday morning very early. It said Marina parking only, it's hard to read the sign, but the sign says Marina parking only so that parking is not available, and that means dock patrons presumably, so that's not available for Clam Shack parking.

Mr. Healey – Mr. Quatrocchi are you aware of the uses of this particular lot of land in question?

Mr. Quatrocchi – I am.

Mr. Healey – Could you tell us what use is presently on that lot of land?

Mr. Quatrocchi – Well, before Mr. O'Connell moved into that land the buildings were used for food equipment storage. The green building, which is a metal building and the temporary building which was subsequently sided and roofed, were all used for food storage. After Mr. Tomoselli entered in a lease with Blount and then subsequently died and his estate sold the property to Blount the marine uses that Mr. Tomoselli had at that property were abandoned and it became food equipment storage and service area for the Blount Fine Foods plant.

Mr. Healey – Are we talking about the same lot for use boat plant that is being purposed here, boat facility, the boat yard, whatever marina AND at the same time being the same lot for the purpose of having the Clam Shack, is that correct?

Mr. Quatrocchi – That's correct.

Mr. Healey – Thank you. Do you have any problems with noise?

Mr. Quatrocchi – We do, we have constant problems with noise.

Mr. Healey – Do you have any problems with noise?

Mr. Quatrocchi- We do. We have constant problems with noise. We have noise problems from...

Mr. Healey – If I may, noise problems for the boats or noise problems from the Clam Shack, which are both apparently being used on the same property?

Mr. Quatrocchi - We have problems from the tractor trailer which Mr. O'Connell uses as a boat hauler and his crane. We also have problems with the announcement of the PA system which is used to tell people that their orders are ready. We also have problems with the public entertainment, the amplified entertainment on weekends, live entertainment that occurs at the Clam Shack.

Chairman A. Harrington – So let me just clarify that, your noise complaints are, do seem to involve the PA system for the Clam Shack, the entertainment for the Clam Shack and then you did say you had some problems with the noise on the operation of his tractor, of the applicant who is here tonight, seeking a special use permit.

Mr. Quatrocchi – Right. The tractor trailer is not inspected, so it is very loud.

Mr. Healey – Mr. Quatrocchi is the applicant both the owner and the user of this property, to your knowledge?

Mr. Quatrocchi – Well

Mr. Healey – Does Mr. O'Connell the applicant own the property?

Mr. Quatrocchi – No he does not

Mr. Healey – Does Blount Fine Foods own the property?

Mr. Quatrocchi – Not all of it, no.

Mr. Healey – Explain that please.

Mr. Quatrocchi – There are other chains of title involved in this property.

Mr. Healey – And that is listed on this application?

Mr. Quatrocchi – No

Mr. Healey – No further questions.

Chairman A. Harrington – Any other witnesses?

Mr. Healey – Mr. Nash

Mr. Healey – Or do I need a subpoena?

Solicitor Minicucci – Technically you would. He is entitled to have notice, he as the Building Official, if you are going to call him as a witness.

Mr. Healey – I would like to call him as a witness.

Solicitor Minicucci – Well I don't think that could be done tonight, A, and B, I think that would need to be done at leave of the body, because it would require them to authorize your issuance of the subpoena. Subpoena is issuable by the body where the action is pending.

Mr. Healey – But an officer of the court can issue a subpoena under Title 8 I don't have the exact location Solicitor.

Solicitor Minicucci – However, for example if you are in arbitration proceeding, it's only by leave of the arbitrator at that point and time, for example, so I believe that if the Zoning Board wishes to hear testimony from the Zoning Official then they can authorize you to call him as a witness. Otherwise I think you would have to try do it by subpoena, because there is no formal discovery procedure here, there are no rule of discovery per say there's no civil rules of procedure, we are generally relying and operating under Robert's Rules and therefore I believe it would be up to the Board to determine whether or not if they want to allow the Building Official to sit and I think you would be entitled to notice on a very minimum basis if he is being asked to testify.

Mr. Healey – If I may, not to contradict, I think the citation in the General Laws allow an officer by subpoena witnesses and for them to be issued immediately, I will give them the eleven bucks right now. The witness fee.

Solicitor Minicucci – Well, no, I don't think it is appropriate because there will be no notification at that point in time. You can't simply stand up and issue a subpoena willy nilly. You would have to give some issuance of the subpoena notification to the witness as to where they are supposed to appear, when they are supposed to appear to give testimony, that had not been done in this case, you certainly had an opportunity to issue that subpoena issued ahead of time, were it that you were expecting to call the Building Official. This matter has been pending for some time and therefore I believe it would only be by leave of the Zoning Board since the matter has been continued, the Planning Board has already ruled, it was scheduled for hearing for today, so I believe it would be up to the Chair to decide how the Chair would wish to proceed if there is to be any testimony to be given from the Building Official.

Mr. Healey – And I would object to that, for the record and I would move in that case that the Board continue the hearings so that I could subpoena Mr. Nash.

Chairman A. Harrington – Well, we are not going to continue.

Mr. Healey – Is that the Board's decision or is that Mr. Alden Harrington's decision.

Chairman A. Harrington – The Chair.

Chairman A. Harrington – Anybody?

Chairman A. Harrington – Are you asking us to continue the matter at this point?

Mr. Healey – I did.

Chairman A. Harrington – Do I have a motion to continue, anybody?

Member W. Barrett Holby, Jr. – I make a motion to approve it.

Member M. Smiley – I would like to cross-exam the applicant.

Solicitor Minicucci – You can call the applicant to respond any objector's comments.

Inaudible

Mr. Healey – May I make a closing statement?

Chairman A. Harrington – Of course.

Member M. Smiley – What is the marina's policy towards boat owner's working on their property on your property, their own boats?

Mr. O'Connell – They are allowed to work on their boats.

Member M. Smiley – So this person would've been allowed to come and sand and operate the equipment?

Mr. O'Connell – On the term contract it spells out that there is no open sanding allowed and everything is to be used these vacuum sanders. I provide vacuum sanders at no charge for all of my customers to use. Quite honestly, Mr. Quatrocchi's customers over on his property, request to use my sanders all the time. I've lent them my sanders, because they didn't have them over there, so

Member M. Smiley – Do you believe this.....Did you see this? Do you believe this person to be using a vacuum sander?

Mr. O'Connell – Oh yeah, I've talked to this gentleman numerous times. He's been around the boatyard a million times and I don't see him, I remember speaking with him about preparing the bottom and I am almost a hundred percent sure he's using sander, I mean a vacuum sander.

Member M. Smiley – If that boat was sitting in his yard on his own personal property would that standard practice?

Mr. O'Connell – I would think so, I don't, I'm not sure about that. But everybody in my fold gets a letter protecting the environment with drop-clothes, vacuum sanding, it's standard

operating procedures, I would say in 99% of the boatyards now and that gentleman who is a seasoned boat owner knows all that.

Member M. Smiley – What are your requirements to enforce that?

Mr. O'Connell – It is just myself watching. If I see somebody who's not doing it I pull the plug immediately, go over the terms, remember the contract, I highlight this stuff on the back of the terms, I really don't have all of this stuff in front of me but I have it right back in my office. I have drop clothes, sanders that anybody can use at any time and if anybody does, I hear that noise going and I am tuned to everything that is going on around there and if something that isn't right I go right over there and unplug it I don't tap the man on the shoulder and say excuse me. You just stop and they get educated. I mean randomly if that happens, I can't remember the last time that happened.

Member M. Smiley – How effective is the vacuum sander? I'm a woodworker I have a vacuum sander.

Mr. O'Connell – Well yeah, it's the best tool, the one that I have, the one I provide my customers is over \$600.00. It is very good you could sand literally sand those bottoms, you should wear a particle mask but, it's an excellent machine.

Chairman A. Harrington – Any other questions of this witness? Any other questions for the objector?

Member P. Attemann – I have two questions. I asked Mr. Quatrocci this before and he gave us his side of the story could you comment on any conversations that you had about your sandblasting operations, any conflicts or concerns that he's expressed to you, one, if that happened. And second, has there been any action on either party to remedy that?

Mr. O'Connell – Well the action I mean, well the first time I got into this trade it was a learning curve and that first time I believe that there was some residue left on some blocking around the boat. Everything else was tented and skirted and there was a little pile of dust left on the blocking that was underneath the keel, and since then, again we only do this a couple of times a year. Our tenting has gotten better and

Member P. Attemann – Was this ever brought up between you and your, Mr. Quatrocci?

Mr. O'Connell – Yeah, he didn't even want to do it period and I don't want to say why, but we've going through all of this stuff, all these sandings, this stuff has been all adhered to, this noise, you know I have a decibel meter in my truck and it's under the legal limit.

Member M. Emmencker – What is that?

Mr. O'Connell – I think it is 75dB. But you know I was attuned to that because of the neighbors and everything else so I bought myself a decibel meter and you can walk around the truck at any moment and you know being in the 325 Water Street was a little more neighborly

there are houses where this gentleman in Burlington, MA right there. You know, the Blount's Fine Food property, I'm tucked in the back, there really aren't any residence, it's been that, what a hundred feet if you look at the lot. But a truck is a truck, a diesel is a diesel, the Blount Fine Food property trucks coming in daily.

Member P. Attemann – Another question, do you know if the Blount Shack, when it opens up for season, does a clean up and put down fresh clam shells or any kind of topping.

Mr. O'Connell – They do a maintenance, you know, skim coat of clam shells, you know a lot of boatyards do, I think it was done next door this year.

Member P. Attemann – Pretty regularly?

Mr. O'Connell – Yeah

Chairman A. Harrington – Anything more? Objector, anything more? Anyone else?

Tammy Beemis - I work with Patrick O'Connell at the boatyard. We tent these boats for the soda blasting not sand blasting so that they are a better environmentally sound product. But we tent the boat very securely and tightly. We wait till the dust settles, then we go in with our masks and we clean up and bag it. Very carefully, I do it myself. In terms of water, many marinas' right now have to put in a filtration system all up and down Rhode Island, large and small. All of us are in the process of applying that, tweaking that, small business, large business, some people already have them. We are in the intent process and they are aware that we actively participating in the process and thirdly we do police our customers very carefully there are random people who will do whatever they want to do, when they think they can get away with it. We try to take care of and make sure that they abide by our terms our terms and conditions so these were three environmental points that I outlined for you that are very important to me. We have loaned Mr. Quatrocchi's customers our (inaudible).

Chairman A. Harrington – Thank you. Anybody else? Any other comments? Mr. Healey will do a closing and then Mr. O'Connell we will allow you to final comment.

Mr. Healey – I then again bring the Board's attention back to 32-30(b), creating a nuisance and a hazard. You're telling me that this is going to be a boatyard on this particular lot, I have no problem with that. Things like this happen all the time in a boatyard. The problem I have is you a restaurant on this yard, it's not an indoor restaurant, it's a restaurant that serves takeout food where eat in the parking lot. These people usually bring kids with them and kids have a tendency to play around with shells, touching them, kicking them with their feet, throwing up dust, what have you. If you were telling me this was inside, I would be less concerned. But we have pictures that were shown to you and it occasionally have people sanding lead bottom boats and copper bottom boats on the particular property with no tarps. Where does this stuff go? The only place I can tell where it goes, is it goes into the ground, onto the shells and you can scrape it around all you want but that's not how you handle lead, that's not how you handle copper, that's not how you handle zinc. If you wanted be in the position of putting a restaurant

that services a family that's services are outside on an area where you have seen pictures that people are sanding boats whether they are under their (inaudible) or not, where you have not seen any environmental study here, I just leave it to this board and I call you attention to your duty under 32-30(b). That's all I can say. We have issues about windows, when we remove them from houses that have lead paint and we have people sanding boats that you know boat paint contains lead, old layers, especially the lower layers contain this and for you to approve this on a lot where you are going to have food service without any environmental protection is beyond me and I will leave it at that. Thank you.

Chairman A. Harrington – Mr. O'Connell

Mr. O'Connell – I'm just going to leave it up to you guys.

Member W. Barrett Holby, Jr. – I just wanted to say that modern paint since the 80's do not have lead in them, they lowered the copper, so they have gone to tin and maybe some zinc and it's water based. I don't want to make some big alarming environmental thing out of what is going on here.

Member M. Emmencker – Mr. Chair?

Chairman A. Harrington – Yes Michael.

Member M. Emmencker – And I don't want to be the one that object environmentally but this same property need to comply with all of the laws and be a safe environment.

Chairman A. Harrington – Okay, thank you. Is there a motion?

Member M. Smiley – I'll make a motion to approve Application #14-2, for a special use permit, applicant O'Connell Warren Marine, Warren Mill Marina, dba PKO Marine at 341 Water St., Warren, RI, 02885, finding that it is compatible with the plan

Solicitor Minicucci – So that we are clear on the motion, where there any conditions attached to the motion? You had mentioned Rhode Island Clean Marine.

Chairman A. Harrington – Yes, I had said that they must operate in compliance with the Rhode Island Clean Marine Handbook

Solicitor Minicucci – Well he has to indicate that as part of his motion and we have that second, if in fact that is what he wants to do.

Member M. Smiley – I will accept that as a condition.

Chairman A. Harrington – Any other conditions?

Solicitor Minicucci – You would need a second to the motion.

Member P. Attemann – Second

Solicitor Minicucci – Any other discussion? You can have discussion.

Chairman A. Harrington – Any other discussion?

Chairman A. Harrington – All those in favor?

Chairman A. Harrington – Aye

Member P. Attemann – Aye

Member M. Smiley – Aye

Member M. Emmenecker - Aye

Alternate W. Barrett Holby, Jr. – Aye

Chairman A. Harrington – All those opposed?

Chairman A. Harrington – The ayes have it. Thank you Mr. O'Connell. Thank you Mr. Quatrocchi.

Chairman A. Harrington called for a brief recess.

The Zoning Board reconvened at 8:27pm.

Chairman A. Harrington spoke with regard to Applications #14-15 & 14-16, **Tourister Mill LLC, as it is expected to be a lengthy matter, therefore it is suggested that it be continued to May 28, 2014 at 7:30pm in the Warren Town Council Chambers.**

It was moved by P. Attemann to continue Applications #14-15 & 14-16 to next Wednesday, May 28, 2014 at 7:30pm. Second M. Smiley. Yea - Chair A. Harrington, P. Attemann, M. Smiley and A. Ellis. Nay - Vice Chair S. Calenda.

Application #14-9; John & Maria Correia, owners and George DeMedeiros, applicant, 27 Vernon St, plat map 15B, lot 7, request for a Variance from section 32-77 of the Warren Zoning Ordinance to construct a 37' x 30' one story addition to the existing single family dwelling with a left side yard setback of 4' and a right side yard setback of 11' where 15' is required; and to have 26.06% lot coverage where 20% is allowed.

George DeMedeiros spoke with the homeowners and came to decision on the plans. The home is small, the family is growing and they would like to keep the backyard as they do a lot of entertaining.

Public Comment – NONE

It was moved **S. Calenda to approve Application #14-9, the applicant being George DeMedeiros being the representative of owners John & Maria Correia of 27 Vernon St, Plat Map 15B, Lot 7**, the original application was to construct a 37'x31' to the back of the home with an 11' right side yard setback and a 4' left side setback, the applicant has conceded to amend his application to an addition of 30'x32', the applicant is asking for relief on the side and setbacks, the proposed one floor addition will be conducive to the surrounding neighborhood. I make a finding of fact that the hardship that the applicant is presenting is due to the condition of the pre-existing lot lines and formation of the lot lines. I also make a finding of fact that if we do grant the minimum amount of relief it will be conducive with the surrounding neighborhood, it will not create any type of a hazard nuisance to the neighborhood, it is compatible with the community and the comprehensive plan and the public convenience and welfare will be served. The west property line setback is 8' and the east property line setback will be 9'. Second M. Smiley. Yea - Chair A. Harrington, Vice Chair S. Calenda, P. Attemann, M. Smiley and A. Ellis.

New Business

Application #14-13, Sandy & Mario Vieira, owners and applicants, 45 Harris Ave, Plat Map 13E, lot 147; request for a Variance from section 32-77 of the Warren Zoning Ordinance to construct a 22' x 28' one story addition to the rear of the existing dwelling with a right side yard setback of 8'10" where 15' is required.

Mario & Sandy Vieira owners and applicants gave presentation of the request for a Variance from section 32-77 and were available for testimony.

Public Comment – NONE

It was moved by **A. Ellis to approve Application #14-13, Sandy & Mario Vieira, owners and applicants, 45 Harris Ave, Plat Map 13E, lot 147**, request for a Variance from section 32-77, to construct a 22' x 28' one story addition to the rear of the existing dwelling with a right side yard setback of 8'10" where 15' is required. The finding of fact that the hardship exists due to the existing character of the land, the existing plot line, it was not a result of any created by the applicant, there is no evidence that this hardship results primarily for financial gain, they're looking to make the home more accessible, certainly is not going to alter the surrounding character and is compatible with the neighborhood and with the comprehensive plan, based on the looks of what they are to construct, I find it is the least amount of relief necessary, a setback of 8'10" should be maintained. Second S. Calenda. Yea - Chair A. Harrington, Vice Chair S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #14-14; Hope & Main, owner and applicant; 691 Main St; plat map 6, lot 6; request for a Special Use Permit from section 32-52 of the Warren Zoning Ordinance to modify condition B of the existing Special Use Permit (#10-40) to allow for a two way ingress/egress to the property via Main St.

Lisa Raiola of Hope and Main and Greg Spiess, Architecture, 21 Preston Dr, Barrington, RI were present to give presentation of the request to modify condition B of the existing Special Use Permit. The prior request would have had entrance from Main St and exiting onto Long Wharf Dr. cul-de-sac. Since the prior zoning hearing the project has changed into an ownership of the parcel and structure through purchase of the property from the Town. We now feel the one-way traffic flow is no longer desirable as it could become a “short cut” to Water Street and cause security problems for both Hope and Main and its neighbors.

Public Comment – NONE

It was moved by **A. Ellis to approve Application #14-14; Hope & Main, owner and applicant; 691 Main St; plat map 6, lot 6; request for a Special Use Permit from section 32-52** of the Warren Zoning Ordinance to modify condition B of the existing Special Use Permit #10-40 to allow for a two way ingress/egress to the property via Main St. I find that by modifying the existing special use permit, the use of the property will remain compatible with the neighboring land uses in the area, it will not create a hazard in the area so long as this proposed change is approved by the public safety officials in the Town of Warren including the Police and Fire Department and any actions required by those principles be taken by the applicant to the satisfaction of those public safety, will remain compatible with the comprehensive plan the existing building with the continued use of the school building and the public convenience and welfare will be served. Conditional on the proper signage will be installed used, a signal device will be installed to indicate whether or not a vehicle is entering or exiting the property which will insure that two vehicles will not meet in the middle (of the driveway) Second P. Attemann. Yea - Chair A. Harrington, Vice Chair S. Calenda, P. Attemann, M. Smiley and A. Ellis.

Application #14-15; Tourister Mill LLC, owner and applicant; 91 Main St; plat map 1, lot 4 and plat map 2, lots 1, 2, & 19; request for a Special Use Permit from sections 32-47, 32-56 and 32-74 of the Warren Zoning Ordinance to construct a mixed-use development with 290 residential apartments and approximately 93,839 sq. ft. of commercial business and office space.

Application #14-16; Tourister Mill LLC, owner and applicant; 91 Main St; plat map 1, lot 4 and plat map 2, lots 1, 2, & 19; request for a Variance from sections 32-78, 32-100(A) & (E)(3), 32-105, 32-106(A) and 32-109 of the Warren Zoning Ordinance to construct a mixed-use development and make modifications, additions, and renovations that require several variances as listed in the application.

(See Above)

Administrative Matters

Discussion of options when meetings need to recess or be continued.

Personnel update

Items for future agendas – NONE

Adjourn - M. Smiley moved to adjourn the meeting at 9:22 PM. Second by A. Ellis. Yea -
Chair A. Harrington, Vice Chair S. Calenda, P. Attemann, M. Smiley and A. Ellis.